

Regular Session, 2010

HOUSE BILL NO. 1200

BY REPRESENTATIVE RICHARD

ELECTION CODE: Provides relative to procedures for registration and voting for persons in the U.S. Service and persons residing outside of the U.S.

1 AN ACT  
2 To amend and reenact R.S. 18:103(B)(1), (2), (3)(b) and (4) and (C)(1), (2), (3)(b), and (4),  
3 154(C), 1306(A)(1) and (4) and (B)(1), 1308(A)(2), 1308.2, 1310(A), and  
4 1313(F)(2), (5), (6), and (8) and to enact R.S. 18:1316(C) and 1319, relative to  
5 procedures for voter registration and voting for persons in the United States Service  
6 and persons residing outside the United States; to provide relative to electronic  
7 transmission of certain registration and election materials; to provide procedures for  
8 the execution and counting of transmitted election materials; to provide for use of the  
9 Federal Write-In Absentee Ballot; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 18:103(B)(1), (2), (3)(b) and (4) and (C)(1), (2), (3)(b), and (4),  
12 154(C), 1306(A)(1) and (4) and (B)(1), 1308(A)(2), 1308.2, 1310(A), and 1313(F)(2), (5),  
13 (6), and (8) are hereby amended and reenacted and R.S. 18:1316(C) is hereby enacted to read  
14 as follows:

15 §103. Personal appearance of applicant required; exceptions

16 \* \* \*

17 B. Any citizen of Louisiana who meets the qualifications set forth in  
18 R.S. 18:101 and who is a legal resident of this state, whether or not he has a place of  
19 abode in this state, but who is unable to appear in person to register because he is in

1 the United States Service, as defined in R.S. 18:1302, may register by mail using the  
2 state mail voter registration form in accordance with the following provisions:

3 (1) The applicant shall mail or transmit electronically a written request to  
4 register to the registrar of the parish of which he was a resident prior to entry into the  
5 United States Service.

6 (2) Upon receipt of the request, the registrar shall mail to the applicant at his  
7 United States Service address: or transmit electronically to the applicant the  
8 application form for registration.

9 ~~(a) The application form for registration.~~

10 (3) Upon receipt of the document, the applicant shall:

11 \* \* \*

12 (b) Return the document by mail to the registrar.

13 \* \* \*

14 (4) Upon receipt of the completed document, the registrar shall: if the  
15 evidence establishes that the applicant meets the requirements for registration,  
16 register the applicant and mail the notice of registration required by R.S. 18:109 to  
17 the applicant at his United States Service address.

18 ~~(b) If the evidence establishes that the applicant meets the requirements for~~  
19 ~~registration, the registrar shall register the applicant and mail the notice of~~  
20 ~~registration required by R.S. 18:109 to the applicant at his United States Service~~  
21 ~~address.~~

22 \* \* \*

23 C. A person who meets the qualifications set forth in R.S. 18:101(E) who is  
24 unable to appear in person to register because he is residing outside the United States  
25 may register by mail using the state mail voter registration form in accordance with  
26 the following provisions:

27 (1) The applicant shall mail or transmit electronically a written request to  
28 register to the registrar of the parish in which he was last domiciled immediately  
29 prior to his departure from the United States.

(2) Upon receipt of such request, the registrar shall mail to the applicant at his address outside the United States: or transmit electronically to the applicant the application form for registration.

~~(a) The application form for registration.~~

(3) Upon receipt of the document, the applicant shall:

\* \* \*

(b) Return the document by mail to the registrar.

(4) Upon receipt of the completed document, the registrar shall: if the evidence establishes that the applicant meets the requirements for registration, register the applicant and mail the notice of registration required by R.S. 18:109 to the applicant at his address outside the United States.

~~(b) If the evidence establishes that the applicant meets the requirements for registration, the registrar shall register the applicant and mail the notice of registration required by R.S. 18:109 to the applicant at his address outside the United States.~~

\* \* \*

§154. Records open to inspection; copying; exceptions

\* \* \*

C. Notwithstanding the provisions of this Section, neither the registrar nor the Department of State shall disclose the fact that a registered voter is entitled to assistance in voting or the social security number, driver's license number, day and month of the date of birth, ~~or~~ mother's maiden name, or electronic mail address of a registered voter or circulate the fact that registered voters are entitled to assistance in voting or the social security numbers, driver's license numbers, day and month of the dates of birth, ~~or~~ mother's maiden names, or electronic mail addresses of registered voters on commercial lists, except when voter registration data is transmitted to the office of motor vehicles of the Department of Public Safety and

1 Corrections, for the purposes of verifying the accuracy and authenticity of the social  
2 security number, driver's license number, or full date of birth provided by the voter.

3 \* \* \*

4 §1306. Preparation and distribution of absentee by mail and early voting ballots

5 A.(1) The secretary of state shall prepare absentee by mail and early voting  
6 ballots. The size and weight of paper, size and type of print, and other matters  
7 pertaining to absentee by mail and early voting ballots shall be determined by the  
8 secretary of state, subject to approval as to content by the attorney general. All  
9 ballots and paraphernalia of the same kind shall be identical as to size and weight of  
10 paper, size, type, and color of print, and other matters, except for ballots transmitted  
11 electronically to members of the United States Service, as defined in R.S. 18:1302,  
12 and to persons residing outside the United States.

13 \* \* \*

14 (4) The secretary of state shall prepare a special absentee ballot for  
15 candidates and constitutional amendments to be voted on in second party primary or  
16 general elections, subject to approval as to content by the attorney general. This  
17 special ballot shall only be for use by a qualified voter who is either a member of the  
18 United States Service or who resides outside of the United States. Such special  
19 ballot shall contain a list of the titles of all offices being contested at the primary or  
20 first party primary election and the candidates qualifying for the primary or first  
21 party primary election for each office, and shall permit the elector to vote in the  
22 second party primary or general election by indicating his order of preference for  
23 each candidate for each office. On the special ballot shall also be printed each  
24 constitutional amendment to be voted on in the second party primary or general  
25 election. To indicate his order of preference for each candidate for each office to be  
26 voted on in the election, the voter shall put the number one next to the name of the  
27 candidate who is the voter's first choice, the number two for his second choice and  
28 so forth so that, in consecutive numerical order, a number indicating the voter's  
29 preference is written by the voter next to each candidate's name on the ballot. A

1 space shall be provided for the voter to indicate his preference for or against each  
2 constitutional amendment contained on the ballot. The voter shall not be required  
3 to indicate his preference for more than one candidate on the ballot if the voter so  
4 chooses. The secretary of state shall also prepare instructions for use of the special  
5 ballot, including instructions for voting by mail using an electronically transmitted  
6 ballot.

7 B.(1) The secretary of state shall prepare absentee by mail and early voting  
8 ballot envelopes, early voting applications, absentee by mail and early voting  
9 instructions, certificates, and other absentee by mail and early voting balloting  
10 paraphernalia consistent with the provisions of this Chapter, subject to approval of  
11 the attorney general as to content. Notwithstanding the provisions of R.S. 18:1316  
12 relating to distinguishing marks on absentee by mail and early voting ballots,  
13 absentee by mail voting instructions on absentee by mail ballots to be transmitted by  
14 facsimile in accordance with R.S. 18:1308(A)(1)(b) shall stipulate that the voter may  
15 mark his ballot with a cross [X] mark or a check [T] mark as provided in Items  
16 (A)(2)(a)(i) and (ii) of this Section. When a court of competent jurisdiction, a  
17 registrar of voters, the secretary of state, or other competent authority determines that  
18 there exists a literate linguistic minority equal to more than five percent of the total  
19 population of any parish, the secretary of state, with approval of the attorney general  
20 as to content, shall prepare and furnish absentee by mail and early voting ballots,  
21 absentee by mail and early voting instructions, and certificates in the minority  
22 language in sufficient quantity to provide to each absentee by mail and early voter  
23 requesting voting material in that language.

24 \* \* \*

25 §1308. Absentee voting by mail

26 A.

27 \* \* \*

28 (2)(a) With respect to ~~persons~~ registered voters on active duty in the United  
29 States military service or outside the continental boundaries of the United States,

1       these materials shall be mailed as provided by the Uniformed and Overseas Citizens  
2       Absentee Voting Act (39 U.S.C. 3406 and 42 U.S.C. 1973ff et seq.) and shall include  
3       both the primary or first party primary election ballot and the special ballots for the  
4       general election or the second party primary election and the general election.

5               **(b) Notwithstanding the provision of Subparagraph (a) of this Paragraph,**  
6       **with respect to registered voters on active duty in the United States military service**  
7       **or outside the continental boundaries of the United States, these materials may be**  
8       **electronically transmitted for a federal general election and must include the special**  
9       **ballot or ballots as provided in R.S. 18:1306(A)(4) for the federal general election.**

10              **(c) The** For mailed ballots, the envelope mailed to the voter shall contain six  
11       envelopes, three of which shall be the ballot envelopes and three of which shall be  
12       return envelopes. Each return envelope shall bear the official title and mailing  
13       address of the registrar, whether it contains a primary, first party primary, second  
14       party primary or general election ballot, and the name, return address, and precinct  
15       or district number of the voter. The voter shall return his voted primary or first party  
16       primary election ballot and special ballots for the general election or the second party  
17       primary and the general election to the registrar in the appropriate envelopes. The  
18       registrar of voters shall not mail a regular general election or the second party  
19       primary and general election absentee ballot to a member of the United States  
20       Service or to persons residing overseas if the registrar has mailed a special ballot, as  
21       provided herein, to such voter. The envelopes for the special ballots shall contain  
22       language on the outside of the envelope ~~which will~~ **that** clearly ~~designate~~ **designates**  
23       which envelope is to be used for return of the second primary election ballot and  
24       which envelope is to be used for return of the general election ballot.

25              **(d)(i) For each electronically transmitted federal general election ballot, the**  
26       **registrar shall transmit the ballot, certificate, and waiver of the right to a secret ballot**  
27       **to the voter. The waiver of the right to a secret ballot shall contain the following**  
28       **statement: "My ballot was transmitted electronically to me and I am voluntarily**  
29       **waiving my right to a secret ballot." The statement shall also contain a space for the**

1 voter's handwritten signature, the date, and the voter's social security number. The  
2 voter shall return by mail his voted ballot, completed certificate, and signed waiver  
3 of the right to a secret ballot. The registrar and his staff shall take the steps  
4 necessary to keep each voted ballot that was transmitted electronically as  
5 confidential as practicable.

6 (ii) The voter may use the "Security Envelope" and ballot transmittal  
7 envelope from the Federal Write-in Absentee Ballot to mail the electronically  
8 transmitted federal general election ballot or ballots and certificate to the parish  
9 registrar of voters.

10 ~~(b)~~ (e) Notwithstanding the provisions of ~~Subparagraph~~ Subparagraphs  
11 (A)(2)(a), (b) and (c) of this Section, ~~if the~~ a voter who is on active duty in the  
12 United States military service or residing outside the United States continental  
13 boundaries and who feels he will not have time to vote timely by mail, ~~the voter~~ may  
14 request that the registrar transmit to him by facsimile a ballot, including the affidavit  
15 certificate, or a second ballot, as the case may be, and the registrar shall do so ~~if a~~  
16 ~~facsimile machine is available for his use.~~ The voter may then either mail or  
17 transmit by facsimile his voted ballot, ~~including the affidavit, and certificate~~ back to  
18 the registrar at the facsimile machine number designated by the registrar. If the voter  
19 chooses to transmit his voted ballot to the registrar by facsimile, the documents to  
20 be transmitted shall contain the following statement: "I understand that by faxing  
21 my voted ballot I am voluntarily waiving my right to a secret ballot." This statement  
22 shall be followed by the voter's handwritten signature, date, and social security  
23 number. Upon receipt of the transmittal, the registrar shall place the voted ballot  
24 along with the signed statement and affidavit certificate in an appropriately marked  
25 envelope and seal it. The registrar and his staff shall take the steps necessary to keep  
26 the voted ballots received by facsimile as confidential as practicable.

27 ~~(c)~~ (f) The secretary of state as the chief election officer of the state shall  
28 take all actions reasonably necessary to allow persons residing outside the  
29 continental boundaries and persons on active duty in the armed forces to vote

1 according to the Uniformed and Overseas Citizens Absentee Voting Act or otherwise  
2 during a period of declared emergency, whether by mail, facsimile, or other means  
3 of transmission of the ballot, notwithstanding any provision of this Code to the  
4 contrary.

5 \* \* \*

6 §1308.2. Voting absentee by mail for presidential candidates and congressional  
7 candidates

8 A.(1) At least forty-five days before each presidential election, the secretary  
9 of state shall deliver to each registrar a sufficient quantity of absentee by mail  
10 ballots, envelopes, certificates, and instructions to be used only by members of the  
11 United States service, as defined in R.S. 18:1302, and persons residing outside the  
12 United States who are registered to vote pursuant to R.S. 18:103(C), for the election  
13 of the president of the United States, including ballots, certificates, and instructions  
14 to be electronically transmitted to the voters. The absentee by mail ballot shall be  
15 prepared according to law and shall contain only presidential candidates. The  
16 absentee by mail ballot envelope shall be marked "Presidential Ballot Only".

17 (2) At least forty-five days before each congressional general election, the  
18 secretary of state shall deliver to each registrar a sufficient quantity of special  
19 absentee by mail ballots as provided in R.S. 18:1306(A)(4), envelopes, certificates,  
20 and instructions to be used only by members of the United States service, as defined  
21 in R.S. 18:1302, and persons residing outside the United States who are registered  
22 to vote pursuant to R.S. 18:103(C), for the election of the members of congress,  
23 including special ballots, certificates, and instructions to be electronically transmitted  
24 to the voters.

25 B. Voting absentee by mail for presidential and congressional candidates as  
26 provided in Subsection A hereof shall be conducted pursuant to the provisions of this  
27 Chapter governing absentee by mail voting generally.

28 \* \* \*



1           §1310. Execution of certificate; marking of ballot; casting vote; assistance

2                   A.(1) When a voter receives the absentee voting materials by mail, he first  
3 shall fill in all blanks on the certificate on the ballot envelope flap. The voter then  
4 shall mark the ballot according to the printed instructions on its face. Then the voter  
5 shall place the voted ballot in the envelope, seal the envelope, and sign the certificate  
6 on the ballot envelope flap.

7                   (2) When a member of the United States service, as defined in R.S. 18:1302,  
8 or a person residing outside the United States who is registered to vote receives the  
9 absentee voting materials by electronic transmission, he first shall print all  
10 documents and fill in all blanks on the certificate and the waiver of the right to a  
11 secret ballot. The voter then shall mark the ballot or ballots according to the printed  
12 instructions on its face. Then the voter shall place the voted ballot or ballots,  
13 completed certificate, and waiver of the right to a secret ballot in an envelope, seal  
14 the envelope, mark "Absentee Ballot Enclosed" on the envelope, and mail the  
15 envelope and its contents to the registrar of voters.

16                                   \*       \*       \*

17           §1313. Tabulation and counting of absentee by mail and early voting ballots

18                                   \*       \*       \*

19                   F. The procedure for counting absentee by mail or early voting ballots shall  
20 be as follows:

21                   (1) A member of the board shall remove the certificates and special absentee  
22 by mail ballots, envelopes containing the absentee by mail and early voting ballots  
23 and early voting applications from the special absentee by mail and early voting  
24 ballot envelope.

25                   (2) The board shall announce the name of each absentee by mail or early  
26 voting voter and the ward and precinct where he is registered to vote, and shall  
27 compare the name on the certificate, early voting application, or on the flap of the  
28 envelope or certificate attached to the envelope containing the absentee by mail or

1 early voting ballot with the names on the list of absentee by mail or early voting  
2 voters and on the supplemental list.

3 \* \* \*

4 (5) If a majority of the members of the board determine that an absentee by  
5 mail or early voting ballot is invalid, the members shall leave the flap on the  
6 envelope containing the absentee by mail or early voting ballot, leave the envelope  
7 sealed, and shall write the word "rejected", together with the reasons for rejecting the  
8 ballot, across the envelope containing the ballot ~~or~~, across the early voting  
9 application, or across the certificate attached to the special absentee by mail ballot.

10 The rejected absentee by mail and early voting ballots ~~and~~, early voting applications,  
11 and certificate shall be replaced in the special absentee by mail and early voting  
12 ballot envelope. No rejected absentee by mail or early voting ballot shall be counted.

13 (6) After the validity of all absentee by mail and early voting ballots has  
14 been determined, the members of the board shall place the valid early voting  
15 applications, certificates, and the flaps removed from the valid absentee by mail and  
16 early voting ballots in the envelope provided for that purpose and seal the envelope.  
17 Two of the members shall execute the certificate on the envelope.

18 \* \* \*

19 (8) The board shall, in accordance with the requirements of R.S. 18:1316,  
20 reject any ballot which contains a distinguishing mark or feature making the ballot  
21 susceptible of identification. However, a ballot shall not be rejected as containing  
22 a distinguishing mark if the ballot was transmitted electronically to a member of the  
23 United States Service, as defined in R.S. 18:1302, or a person residing outside the  
24 United States.

25 \* \* \*

26 §1316. Rejection of ballot having distinguishing marks

27 \* \* \*

1           C. A ballot transmitted electronically to a member of the United States  
2           Service, as defined in R.S. 18:1302, or a person residing outside the United States  
3           shall not be considered as having distinguishing marks.

4           Section 2. R.S. 18:1319 is hereby enacted to read as follows:

5           §1319. Use of Federal write-in absentee ballot; presidential and congressional  
6           elections

7           A member of the United States Service, as defined in R.S. 18:1302, or a  
8           person residing outside the United States who made a timely application to vote  
9           absentee by mail as provided in R.S. 18:1307(C) and who did not receive absentee  
10          by mail ballots may use the Federal Write-In Absentee Ballot to vote in presidential  
11          elections and congressional elections. The Federal Write-In Absentee Ballot shall  
12          be submitted, processed, and counted in the manner provided in this Chapter.

13          Section 3.(A) This Section and Section 1 of this Act shall become effective upon  
14          signature of this Act by the governor or, if not signed by the governor, upon expiration of  
15          the time for bills to become law without signature by the governor, as provided by Article  
16          III, Section 18 of the Constitution of Louisiana. If this Act is vetoed by the governor and  
17          subsequently approved by the legislature, this Section and Section 1 of this Act shall become  
18          effective on the day following such approval.

19          (B) Section 2 of this Act shall become effective December 31, 2010.

---

#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

---

Richard

HB No. 1200

**Abstract:** Provides relative to procedures for registration and voting for persons in the U.S. Service and persons residing outside of the U.S.

Present law (R.S. 18:103) provides procedures for a person who meets the qualifications in present law to vote and who is a legal resident of the state, but who is unable to appear in person to register because he is in the U.S. Service to register by mail. Provides for the mailing of the application form to the person. Requires the person to complete the form and return the form to the registrar.

Proposed law requires that the form be returned to the registrar by mail. Otherwise retains present law and additionally provides for electronic transmission of the application form.

Present law (R.S. 18:154) prohibits the registrar and the Dept. of State from disclosing certain voter information. Proposed law retains present law and adds the electronic mail address of a voter to the list of information that may not be disclosed.

Present law (R.S. 18:1306) provides relative to the preparation of ballots and election paraphernalia. Requires ballots and paraphernalia of the same kind to be identical as to size and weight of paper, size, type, and color of print and other matters. Proposed law provides an exception to present law for ballots transmitted electronically to members of the U.S. Service and persons residing outside the U.S.

Present law provides for a special ballot to be used by members of the U.S. Service and persons residing outside the U.S. Requires the secretary of state to prepare instructions for use of the special ballot. Proposed law adds a requirement that the secretary of state also prepare instructions for voting by mail using an electronically transmitted ballot.

Present law (R.S. 18:1308) provides for the mailing of voting materials to members the U.S. Service and persons residing outside the U.S. Specifies the materials that must be sent.

Proposed law provides for the electronic transmission of these materials, including the ballot, certificate, and a statement to be signed by the voter that acknowledges that the voter voluntarily waives his right to a secret ballot. Provides specific instructions for mailing the marked ballot and other materials to the registrar.

Present law (R.S. 18:1308.2) requires the secretary of state at least 45 days before each presidential election to deliver to each registrar a sufficient quantity of absentee by mail ballots, envelopes, certificates, and instructions to be used by members of the U.S. Service and persons residing outside the U.S. for election of the president.

Proposed law retains present law and includes in the materials required to be delivered: ballots, certificates, and instructions to be electronically transmitted. Additionally provides that the materials required to be delivered prior to presidential elections shall also be delivered to each registrar at least 45 days prior to each congressional general election.

Present law (R.S. 18:1310) provides requirements for executing absentee by mail voting materials. Proposed law additionally provides instructions for executing materials electronically submitted to members of the U.S. Service and persons residing outside the U.S.

Proposed law provides that a ballot shall not be rejected as containing a distinguishing mark if the ballot was transmitted electronically to a member of the U.S. Service or a person residing outside the U.S.

Proposed law provides that a member of the U.S. Service or a person residing outside the U.S. who made a timely application to vote absentee by mail as provided in present law and who did not receive absentee by mail ballots may use the Federal Write-In Absentee Ballot to vote in presidential elections and congressional elections. Provides that the Federal Write-In Absentee Ballot shall be submitted, processed, and counted in the manner provided in present law provisions relative to absentee by mail and early voting.

Effective upon signature of governor or lapse of time for gubernatorial action, except that provisions relative to the Federal Write-In Absentee Ballot are effective Dec. 31, 2010.

(Amends R.S. 18:103(B)(1), (2), (3)(b) and (4) and (C)(1), (2), (3)(b), and (4), 154(C), 1306(A)(1) and (4) and (B)(1), 1308(A)(2), 1308.2, 1310(A), and 1313(F)(2), (5), (6), and (8); Adds R.S. 18:1316(C) and 1319)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on House and Governmental Affairs to the original bill.

1. Added requirements that the materials electronically transmitted to the voter by the registrar include a statement that the voter voluntarily waives his right to a secret ballot and that the voter sign the statement and return it along with the other materials to the registrar.
2. Removed references to an affidavit and included instead references to a certificate in provisions relative to materials sent to a voter.